

REMARKS

The Advisory Action mailed April 28, 2004 has been received and reviewed. Applicant appreciates the assistance provided by the Examiner during the phone interview on April 26, 2004. In the specification, paragraph [0001] is proposed to be amended to correct the cross reference with regard to International Patent Application PCT/NL96/00244. No new matter has been added.

The Advisory Action states that during the phone interview, undersigned counsel “agreed to file a TD over the ‘652 patent” and that “potential ODP issues with US 6692966 and 6265212 were discussed” and it was “indicated that a TD will be filed to correct this ODP issues.” With respect to US Patent 6,306,652, a Terminal Disclaimer was provided by applicant January 28, 2004. A copy of this terminal disclaimer is included as Exhibit 1. With respect to US Patent 6,692,966 and US Patent 6,265,212, the required terminal disclaimers are provided herewith.

The Advisory Action notes that evidence showing “that the inventive entity between the ‘212 patent and the present application is the same” is to be submitted. Attached as Exhibit 2 is a Petition for Issuance of a Certificate of Correction or Renewed Petition for Correction of Inventorship in Patent Pursuant to 35 U.S.C. 256 (37 C.F.R. § 1.324), which was submitted to the Office on April 28, 2004. As shown by this Petition and the Exhibits thereto, on July 8, 2003, a petition to correct inventorship in the ‘212 patent was filed, and a Communication entering and accepting this petition was mailed on October 7, 2003. As the requested Certificate of Correction has not yet issued, the second Petition has been presented. Applicants respectfully submit that this petition, with the supporting documents as to inventorship and the statement that inventorship error occurred without deceptive intent provide the evidence of inventor identity required in the Advisory Action.

In view of the foregoing, applicants submit that the application, as proposed to be amended, should be in condition for allowance. It is requested the amendment be entered and the application allowed. If questions remain after consideration of the foregoing, however, the Office is kindly requested to contact applicants' attorney at the address or telephone number given herein

Respectfully submitted,

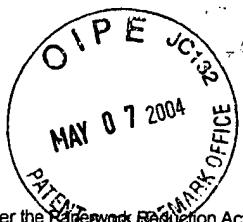


Bretton L. Crockett
Registration No. 44,632
Attorney for Applicants
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: May 3, 2004

BL

Document in ProLaw



PTO/SB/26 (10-00)

Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBLIGATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)
2578-3833.6US

In re Application of:

Application No.: 10/038,271

Filed: October 23, 2001

For: PACKAGING SYSTEMS FOR HUMAN RECOMBINANT ADENOVIRUS TO BE USED IN GENE THERAPY

The owner*, Crucell Holland B.V. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,306,652. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney of record.

1/28/04

Signature

Date

Bretton L. Crockett

Typed or printed name
Reg. No. 44,632

Terminal disclaimer fee under 37 CFR 1.20(d) is included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Certification under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).

Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.